

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES FIRE INSURANCE
COMPANY,

Plaintiff/Counter-
Defendant,

vs.

GREATER MISSOULA FAMILY
YMCA,

Defendant/Counter-
Claimant.

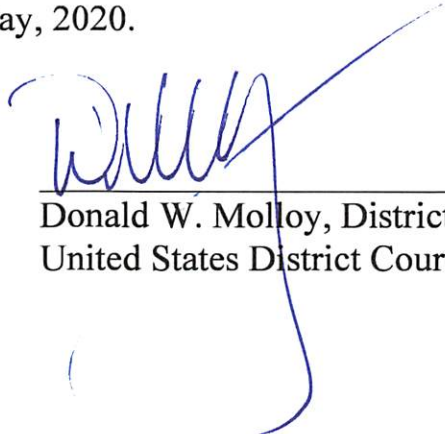
CV 19-21-M-DWM

ORDER

Although US Fire originally filed this declaratory action, it forced YMCA to litigate to obtain coverage. An award of attorneys' fees is therefore appropriate. *See Mtn. W. Farm Bureau Mut. Ins. Co. v. Brewer*, 69 P.3d 652, 655 (Mont. 2003); *Riordan v. St. Farm Mut. Auto. Ins. Co.*, 589 F.3d 999, 1007 (9th Cir. 2009); *Boulter v. Hartford Fire Ins. Co.*, 321 F. Supp. 3d 1199, 1205 (D. Mont. 2018). As this Court has previously explained, while an insurer "has the right to roll the dice and contest coverage," if it guesses wrong, then the insurer—not the insured—"should be the party to bear the burden of the legal expenses incurred." *Gotham Ins. Co. v. Allegiance Benefit Plan Mgmt.*, 2011 WL 3475467, at *3 (D. Mont. Aug. 9, 2011).

Accordingly, IT IS ORDERED that YMCA's request for attorneys' fees is GRANTED. YMCA shall submit a proposed fee award with supporting documentation on or before May 21, 2020.

DATED this 7th day of May, 2020.



Donald W. Molloy, District Judge
United States District Court